

AGENTS MUST BE PROCURING CAUSE TO COLLECT FEES

Law of Oregon Regarding Real Estate Transactions Is Explained to Y. M. C. A. Class by Attorney A. G. Thompson

That an agent must be the procuring cause of the sale before he can collect a commission under a contract to sell real estate, was declared to be the law in Oregon by Attorney A. G. Thompson in a lecture recently delivered by him before the Y. M. C. A. class in real estate law.

Mr. Thompson's lecture dealt entirely with the agent as the procuring cause and the conditions under which commissions are earned. He said in part as follows:

Procuring Cause.
"The agent, before he acquires a right to a commission, must either be the procuring cause of the sale or have an irrevocable agency contract or a contract stipulating that if the property is sold within the time by the agent, another agent or by the principal, the agent will be entitled to a commission. A contract with an agent for the term of 30 days to sell realty providing that at such time as a sale shall be effected a commission shall be paid does not give the agent a right to collect commission on a sale by the owner unassisted by the agent within 30 days. He would not be the procuring cause and his contract does not enable him to collect a commission upon a sale by the principal."

What Cause Means.
"The supreme court of our state has held that an agent must either be the procuring cause of an actual sale or that he has procured a purchaser ready, willing and able to buy upon the terms named by the vendor before he is entitled to a commission. This being true, it becomes important to understand what the term procuring cause means. Should the duly authorized agent find a purchaser and introduce him to the principal and the prospective purchaser and the principal then consummates the deal and the agent does nothing further, he would be the procuring cause. The agent need not spend his time running here and there with the seller and purchaser; he need not do anything toward getting the abstract or helping correct up the same in the matter of securing affidavits, quit claim deeds, or other instruments."

Cases in Point.
"If A, the agent, should advertise a piece of real property and X, the prospective purchaser, should make inquiry

through the mail and A should, by letter direct X to B, the owner, whereupon X and B meet in a distant city or in some other office than that of X, make the bargain and close the deal, X's efforts would have been the procuring cause. But suppose A meets X. He says nothing to X about B's property. By chance A introduces X to B. Later X through other sources than A learns that B will sell. X and B now enter into negotiations and close the deal. Here A was not the procuring cause. Or again, suppose A went to B and obtained authority in writing from B to sell a certain corner for a certain price. A, the agent, puts the same up to X. Then X makes an offer to B through A, the agent. B refuses. X now sends C, his agent, who offers B his price and the deal is closed. The supreme court of the state of New York has held that A was not the procuring cause in the transaction and was not entitled to collect a commission.

Right to Commission.
"In determining whether or not the agent was the procuring cause it must affirmatively appear that the purchaser was induced to apply to the owner through the means employed by the agent. These may be various and subtle in their nature, and if through any of them he becomes the procuring cause by the circumstances that the owner was ignorant of it at the time he entered into the contract with the purchaser. As for example, the agent may have inserted an advertisement in regard to the property in a distant newspaper and the prospective purchaser may have gone direct to the owner without interviewing the agent, using other information than that contained in the advertisement to locate the owner. If a deal is made the agent is still the procuring cause, although the buyer during the negotiations may have never mentioned the agent's name or referred to the original source of his information, and the seller may not have known that the agent had anything to do with the transaction, other than having an agency contract for the sale of the same."

THREE NEW HOUSES STARTED IN BELMONT

Friday last the contract for bitulthio pavement in Beaumont's first improvement district was awarded to Elwood Wiles, in the sum of about \$100,000. Last week witnessed the starting of three additional houses in Beaumont; five more will be begun during the coming week. One will cost \$4800, another \$3500, and still another \$4200. Sidewalk laying in the addition is in full swing, East Thirty-seventh and East Forty-second streets being the first thoroughfares to be sidewalked and paved.

GLISAN STREET HALF ACRES PUT ON MARKET

"Glisan Street Half Acres" is the name of a new subdivision to be put on the market tomorrow morning by the realty firm of Hartman & Thompson. This property is located two miles east of Montevilla in the district penetrated by the Mount Hood railway. It joins "Fordham," the tract just sold out by this firm.

WORK COMMENCED ON THREE STORY BRICK

Work was started this week by Morgan, Fiedner & Boyce, on the new three story brick building to be erected on the southwest corner of Hawthorne avenue and East Sixth street. For Fred S. Stanley, Robert Smith and Whitney L. Boise. This property was recently taken on a long lease from Thomas Hilop, who has been the owner for many years and who has lived to see that location changed from a pasture to a very important business center. This quarter block adjoins the Heller block on the east and has a frontage of 100 feet on the south side of Hawthorne avenue, which will be divided into six storerooms. The second and third floors and a portion of the East Sixth street frontage will be divided into six room apartments, the plans showing a very convenient and economical arrangement. The building will cost about \$50,000 and it is expected to have it completed by September 1.

R. H. THOMPSON BUYS SITE FOR NEW GARAGE

R. H. Thompson has purchased the quarter block in the southwest corner of Fourteenth and Couch streets as a site for a three story garage and automobile salesroom for the Speedwell Auto company. The property was purchased from George Lawrence Jr., who was paid \$10,000 for it. Mr. Lawrence bought the quarter less than a year ago for \$35,000. The property is a portion of the Isaac Lawler homestead. Hartman & Thompson negotiated the deal.

WILSON APPROVES RAPID SPREAD OF COMMISSION FORM

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the city, who are expected to choose their own subordinates, organize the various departments of the city government under their own immediate direction, and give the people what they demand—a businesslike, nonpartisan, economical, efficient government. Five or six men the people can watch and hold responsible. More than five or six would escape their notice and would constitute a crowd which they could not follow with their applause or their censure.

Not a State in Miniature.
"The second thing manifest in the new form of government is that it abandons the new idea with which we so long deceived ourselves, that a city government is practically a state government in small, which must have its carefully separated executive and legislative branches. Of course there is an analogy between the power of a city council to pass ordinances and the power of a state legislature to pass statutes, but the ordinance making power is rather regulative, not legislative, and the city is a great administrative organization, not a miniature copy of the government of a state. Hitherto, moreover, we have not been content with drawing careful lines between executive and legislative

action in our city governments. We have sought to multiply checks and balances as elaborately as possible. It has been a favorite device to set up independent boards of finance which should have control of the moneys of the city and determine how much the various departments of the city should be permitted to spend. We have had water boards and gas boards, and boards of public works and boards of every kind, each with its independent set of powers, each with its independent derivation from the votes of the people, and have seemed almost of set purpose to multiply the cogs and jealousies and pullings hither and thither of a system which ought, in order to work effectively, to have worked in harmony as a unit and not as a system of rivalries and suspicious checks.

Get Away the Jungles.
"If we are, as now seems probable, to follow along the lines upon which we have started in the matter of our city governments, it is evident that we are giving up to ourselves greatly by giving up our ancient ingenious art of creating ambushes and jungles in which our politicians can play hide and seek with us. The thing which the astute politician should most desire is that authority should be as much subdivided as possible, that each officer should have a function so obscure that nobody could have the time or the curiosity to watch him, that there should be no system of central control, that no one officer should be subordinated to any other officer, and that above all there should be independent sections to the several places to be filled. This delightful confusion constitutes the most admirable opportunity for management and contrivance and private combination imaginable. Anything that simplifies the system of necessity purifies it, because simplification means that there are no hitting and dodging schemes and 'framed-up' combinations."

TEN ACRES ON BARNES ROAD BRINGS \$10,000

Ten acres of elevated land fronting on the Barnes road and near the hill property belonging to the Macleay estate, was sold last week by A. L. Mickelson to J. H. W. Wilson for \$10,000. A force of surveyors is now in the property subdividing it into residence sites. The streets are to be contoured and the platting is to closely follow the undulating character of the land. It is estimated that the tract will subdivide into 36 residence sites. This sale was negotiated by the National Realty & Trust company.

The same company reports the sale of a group of nine lots in block 20, in Laurelhurst to G. W. Priest, the well known residence builder. The consideration involved was \$12,800.

Mr. Priest will immediately begin the erection of nine modern \$5000 to \$7000 homes, one to each lot, on his new acquisition in Laurelhurst. Work of excavating for the houses is now under way and the intention is to have them all completed by fall.

This company also reports the sale of a new seven room house on Multnomah street, near Pierces Place, in Laurelhurst, to W. H. Trece for \$6000. J. F. Roller, a recent arrival from Virginia, has purchased from N. P. Bush a six room dwelling house located on East Fifty-second street and Hawthorne avenue, for \$4000.

Journal Want Ads bring results.

CONTRACT LET FOR FIVE NEW COTTAGES

H. F. Barnhart has let contracts for the erection of five modern 1 1/2 story cottages on East Forty-sixth street, near Tillamook, in Rose City Park. Mr. Barnhart has just sold to Pearl M. Lott a seven room bungalow located in the same block for \$5500. He is the owner of eight other lots in the same vicinity on which he plans to build houses this summer.

The quarter block located at the southeast corner of East Twentieth and Salmon street, in Westmoreland, has been purchased by Walter McGovern for \$1750. This property is located but a short distance from the grounds of the Reed Institute. Mr. McGovern plans to improve the site with a handsome private residence.

LYLE BOOSTERS HOLD ROUSING MEETING

The Lyle Commercial club held the largest meeting in its existence last Saturday at the Woodman hall, Lyle. The extra attendance was brought out by the fact that this was the first meeting of the club since the opening of the townsite.

D. E. Keasey and C. H. Lehman addressed the meeting and told them of the many large developments assured for Lyle.

The ladies provided a basket lunch and one of the most enjoyable meetings in the history of the club was had. Secretary H. J. Clark, whose valuable services have done so much toward making the work of the Commercial club successful, regretfully presented his resignation, a call to a larger field, with inducements so generous that he could not afford to ignore them, compelling his resignation. Work on the townsite is progressing very rapidly, the new overhead viaduct spanning the North Bank track connecting the north and south sections of the townsite being now under way, ten car loads of timbers already being on the side tracks ready for work. A large force of men have been engaged and are preparing for the street work. The engineers under Chief Engineer G. A. Kyle have almost completed the platting of the townsite.

The brick deposits adjacent to Lyle will be opened at once and both common brick and face brick will be manufactured. The One Hundred Barrel Flouring Mill which has been trying to secure location in Lyle for several years, but was unable to purchase property has at last closed a deal with the townsite managers and will immediately proceed to install a modern up-to-date mill.

SEUFERT PURCHASES SITE IN FIFTH STREET

T. J. Seufert, the canneryman at The Dalles, but now a resident of this city, closed a deal last week for the purchase of a 1 1/2 lot parcel of land, lo-

ated at the northwest corner of Fifth and Madison streets, which is to be used as the site for a three or four story brick building of the combination store and hotel type.

This property is across Fifth street from the city hall. It was sold by the Portland Trust company, which held the title as trustee. The consideration involved was \$53,000. The Stewart-Fry Realty company negotiated the deal.

This is the third sale of near-in Fifth street property reported during the past 30 days. The last previous transaction in Fifth street realty involved a 60x60 foot lot at the northwest corner of Fifth and Clay which was sold by F. E. Beach to M. E. Lee and associates for \$18,000. Plans are maturing for the improvement of this lot with an apartment or rooming house. Further south on Fifth street two other parcels changed hands in the past few weeks at increased prices.

South Fifth street has for a long time been at a standstill so far as realty activity is concerned; but recent transactions coupled with the large building operations under way and projected bids for the improvement of Fifth street one of Portland's principal north and south thoroughfares.

In the Virginia penitentiary one firm is said to have a contract for the manufacture of shoes, and over 2,000,000 pairs are produced yearly for this firm, the company paying to the state for the labor of the convicts 60 cents a day.

SHAW-LOCKE REALTY CO. REPORTS SALES

The Shaw-Locke Realty company reports the following real estate transactions concluded during the past 10 days: Charles Hall of Hood River took title to lots 16 and 17, block 19, Council Crest Park, from Frank Powers; consideration \$2500. Mr. Hall also bought lot 1, block 1, in Council Crest Park, for which he paid \$3000. On two of the lots he plans to build a handsome residence for his own occupancy, and the other will be held for an investment. Tract 3 in Kilworth Half Acres was sold to A. Philpott of Nampa, Idaho, for \$1000. Kilworth Half Acres joins the city limits on the east and is on the proposed Mount Hood Railway line. D. J. Hauck of Kansas City purchased from B. E. Keaster lots 1 and 2, in block 6, Belle Crest; consideration \$1500. Mr. Hauck plans to erect two modern residences on this property at once.

Representatives of fifty Jewish organizations in Boston have banded together to raise \$10,000 for establishing cooperative bakeries. This is a step toward securing an eight-hour day for members of the Hebrew Bakers' union.

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